

04-698

AGREEMENT BETWEEN
THE
DEPARTMENT OF THE ARMY
OF
THE UNITED STATES OF AMERICA
AND
THE
SECRETARIAT OF THE NATIONAL DEFENSE
OF THE
UNITED STATES OF MEXICO
REGARDING THE EXCHANGE
OF
MILITARY PERSONNEL
(SHORT TITLE: MPEP AGREEMENT)

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PREAMBLE

The Department of the Army of the United States of America and the Secretariat of National Defense of the United Mexican States, hereinafter referred to as "the Parties," considering the importance to strengthen bonds of friendship and understanding between their respective military organizations, have agreed to establish a Military Personnel Exchange Program (MPEP), by approving the following:

ARTICLE I DEFINITIONS OF TERMS

The Parties have agreed upon the following definitions for terms used in this Agreement:

Agreement	The Military Personnel Exchange Agreement, which formalizes this Exchange Program.
Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of security classification markings.
Combatant Command	One of the U.S. unified or specified combatant commands established by the President under Title 10, United States Code, Section 161.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an Agreement, the information shall be marked to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled.
Host Organization	The Military Service, Combatant Command, Defense Department/Ministry agency, staff, facility, or equivalent organizations, to which exchange personnel are assigned for duty pursuant to this Exchange Program.
Host Party	The U.S. Army or the Secretariat of the National Defense of Mexico, to which the Host Organization belongs.
Military Exchange Personnel	Military personnel on active duty with the Parent Organization who are present with the Host Organization pursuant to this Exchange Program.

Parent Organization The Military Service, Combatant Command, Department/ Secretariat agency, staff, or equivalent organization to which the exchange personnel belongs.

Parent Party The U.S. Army or the Secretariat of the National Defense of Mexico, to which the Parent Organization belongs.

ARTICLE II PURPOSE AND SCOPE

2.1. This Agreement establishes the terms and conditions by which the Parties, agree to provide on-site working assignments to selected career military personnel (hereafter referred to as "Military Exchange Personnel") from the other Party. The work assignments shall provide Military Exchange Personnel work experience and knowledge of the organization and management of Host Organization activities by performing duties under the direction of a host supervisor. Exchanges of military personnel under this Agreement shall be conducted on a reciprocal basis (one-for-one, in similar duties) so that the overall benefit to each Party shall be essentially equal. This Exchange Program shall not include training, except for programs conducted to familiarize, orient, or certify exchange personnel regarding unique aspects of their assignments and as provided in paragraph 5.2.3. Additionally, it is not to be used as a mechanism for the exchange of information between the Parties.

2.2. Military Exchange Personnel shall not be assigned to positions under this Exchange Program that would involve the release of Restricted Data or Formerly Restricted Data as defined in the U.S. Atomic Energy Act of 1954 as amended; communications security information for which foreign dissemination has been prohibited in whole or in part; information for which a special access authorization is required; information originated by another organization, department, agency or government; or controlled unclassified information, unless the specific information has been authorized in writing for release to the government of the Parent Party under an existing program or with the prior written consent of the appropriate disclosure authority, whichever is applicable.

2.3. Military Exchange Personnel should not be assigned to positions which require access to classified information.

2.4. Military Exchange Personnel shall not act in a liaison capacity or otherwise act as representatives of the Parent Party or the Parent Organization while assigned to exchange positions, nor shall they act as representatives of the Host Party or the Host Organization to which they are assigned. Military Exchange Personnel shall perform duties as defined in the position descriptions (PDs) for their respective positions.

ARTICLE III EXECUTIVE AGENTS

3.1. The Department of the Army of the United States of America, and the Chief of Section No. Two of the Chief of Staff Office, Secretariat of the National Defense of Mexico, shall be the Executive Agents for this Agreement. The Executive Agents shall be responsible for:

3.1.1. Periodically reviewing this Agreement to ensure conformity with the applicable laws and regulations of the respective countries;

3.1.2. Recommending amendments to this Agreement;

3.1.3. Maintaining a record of the exchange positions listed at Annex B and their associated position descriptions (PD);

3.1.4. Entering into specific exchanges; and

3.1.5. Ensuring that exchanges are conducted in accordance with the approved position descriptions, applicable laws and regulations, and this Agreement.

ARTICLE IV SELECTION AND ASSIGNMENT OF PERSONNEL

4.1. Participation in this Exchange Program shall be on a highly selective basis from among career military personnel of the Department of the Army of the United States of America and the Secretariat of National Defense of the United States of Mexico. The Parent Organization shall be solely responsible in the selection of its Military Exchange Personnel based on the following criteria:

4.1.1. They must have demonstrated capabilities for future positions of greater responsibility.

4.1.2. They must be well versed in the current practices, technical training and doctrine of their organization, and be particularly qualified through experience for the exchange positions to be occupied.

4.1.3. They must possess the grade, skill, training, and academic qualifications, which are described in the applicable position descriptions.

4.1.4. They must be sufficiently proficient in the language of the Host Party to satisfy the requirements of the positions.

4.2. Consistent with the nomination process, the Host Party shall be authorized to discharge exchange personnel from this Exchange Program who do not meet the

above established criteria and requirements. This decision is within the sole discretion of the Host Party.

4.3. The normal tour of duty for Military Exchange Personnel, exclusive of travel time between countries, shall be for a period of two years. Any time required for qualification and familiarization shall be in addition to the normal tour. Exceptions and/or adjustments of exchange tours shall be based on mutual agreement.

ARTICLE V FINANCIAL ARRANGEMENTS

5.1. The Parent Party's or the Military Exchange Personnel's responsibilities (according to the Parent Party's policies and regulations) shall include, but shall not be limited to; the following costs for its Military Exchange Personnel:

5.1.1. All salary and benefits.

5.1.2. Cost of travel to the Country of Host Party and back to the Country of Origin.

5.1.3. All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Party.

5.1.4. The movement of dependents and the household effects of Military Exchange Personnel.

5.1.5. Preparation and shipment of remains and funeral expenses in the event of the death of Military Exchange Personnel or their accompanying dependents.

5.1.6. All expenses in connection with the return of Military Exchange Personnel who have been discharged from this Exchange Program and their accompanying dependents.

5.2. The Host Party or Organization shall be responsible for the following costs:

5.2.1. Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Party.

5.2.2. Costs incurred as a result of a change in location of work ordered by the Host Party during the period of the exchange.

5.2.3. Costs for training conducted to familiarize, orient or certify exchange personnel regarding unique aspects of the assignments of exchange personnel.

5.3. The Host Party shall not charge for the use of facilities or equipment necessary for the performance of tasks assigned to Military Exchange Personnel.

5.4. The Parent Party shall pay the costs of formal and informal training and professional military education (PME).

5.5. The Host Party shall not provide any supplies or services related to those costs that, by virtue of paragraph 5.1 above, are the obligation of the Parent Party. Accordingly, it shall be necessary for the Parent Party to make arrangements to defray such costs directly through its personnel, rather than by reimbursement to the Host Party.

5.6. The obligations of each Party under this Agreement shall be subject to the authorization and availability of funds for such purposes.

ARTICLE VI SECURITY

6.1. During the selection process, each Party shall inform the other of the level of security clearance required, if any, to permit Military Exchange Personnel to have access to classified information and work areas. There shall be no access to Classified Information pursuant to this Agreement.

6.2. Each Party shall cause security assurances to be filed, through the Military Attaché, Embassy of Mexico in Washington, DC, in the case of Mexican personnel, and through the Army Attaché, U.S. Embassy in Mexico City, in the case of the United States personnel, stating the security clearances for all Military Exchange Personnel selected. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established Host Party procedures.

6.3. The Host Organization and the Parent Organization shall ensure that assigned Military Exchange Personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), and controlled unclassified information to which access might be gained under this Exchange Program, both during and after termination of an assignment. Military Exchange Personnel shall be required to sign the certification at Annex A.

6.4. Military Exchange Personnel shall at all times be required to comply with the security laws, regulations and procedures of the government of the Host Party. Any violation of security procedures by Military Exchange Personnel during their assignments shall be reported to the Parent Party for appropriate action. Military Exchange Personnel committing willful violations of security procedures during their assignments shall be withdrawn from this Exchange Program with a view toward administrative or disciplinary action by the Parent Party.

6.5. There is no General Security of Military Information Agreement (GSOMIA) in force between the Parties. Classified information will not be exchanged between the Parties pursuant to this MOA.

ARTICLE VII TECHNICAL AND ADMINISTRATIVE MATTERS

7.1. To the extent authorized by the laws and regulations of the government of the Host Party, the Host Organization shall arrange for the provision of administrative support as is deemed necessary for Military Exchange Personnel to perform assigned tasks efficiently. The Host Organization shall familiarize Military Exchange Personnel with any unique procedures necessary for the proper performance of their assigned tasks.

7.2. Consistent with the laws and regulations of the government of the Host Party, Military Exchange Personnel assigned under this Agreement shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank in their areas of assignment. Further, to the extent authorized by the laws and regulations of the government of the Host Party, Military Exchange Personnel and their authorized dependents shall be accorded on a reciprocal basis:

7.2.1. Exemption from any tax by the government of the Host Party upon income received from the government of the Parent Party. The Convention between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with Related Protocol, signed 18 September 1992, and the Additional Protocol that Modifies the Convention, signed 8 September 1994, shall apply to this Agreement. This Agreement does not affect Parent Party Tax Laws regarding income of Parent Party Personnel.

7.2.2. Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Party for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing shall not in any way limit privileges set forth elsewhere in this Agreement, or other privileges granted by the laws of the government of the Host Party.

7.3. Military Exchange Personnel and their accompanying dependents shall be informed by the Host Organization about applicable laws, orders, regulations and customs and they shall be required to comply with them. Military Exchange Personnel and their dependents also shall be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

7.4. Military Exchange Personnel may observe the holiday schedule of either the Parent Party or the Host Party as mutually agreed.

7.5. Military Exchange Personnel shall be assigned work under the guidance and supervision of a host supervisor, a person from the Host Party. The host supervisor shall establish performance standards and observe the performance of Military Exchange Personnel to provide a basis for counseling and performance evaluations. Military Exchange Personnel shall have performance evaluations rendered by their Host Organization's supervisor. The Host Organization shall forward such evaluations to the Parent Organization in accordance with Parent Organization requirements.

7.6. Reports which Military Exchange Personnel may be required to make by the Parent Party, or which they wish to make concerning their exchange duties, shall be submitted as follows:

7.6.1. U.S. Army Military Exchange Personnel will forward their reports through the United States Army Attaché, Mexico City, in accordance with U.S. Army Regulation 614-10.

7.6.2. Mexican Military Exchange Personnel will forward their reports through the Mexican Military Attaché in Washington, DC.

7.7. Military Exchange Personnel committing an offense under the laws of the government of either the Parent Party or the Host Party may be withdrawn from this Exchange Program with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against Military Exchange Personnel. Military Exchange Personnel shall not exercise disciplinary authority over personnel of the Host Party. The Parties shall cooperate in carrying out administrative or disciplinary action by the Parent Party against its Military Exchange Personnel.

7.8. Any medical and dental care that may be provided to Military Exchange Personnel and their dependents at the Host Party medical facilities, shall be subject to the requirements of the laws and regulations of the government of the Host Party and applicable agreements, including reimbursement when required by such laws and regulations.

7.9. In no case shall Military Exchange Personnel be assigned to positions, which would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the United States Government or the Government of the United States of Mexico.

7.10. Military Exchange Personnel shall not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent

Party, or where, in the normal course of their duty, they may become involved in activities, which may embarrass the Parent Party.

7.11. The Host Party shall not deploy Military Exchange Personnel to a third country.

7.12. The Host Party shall not place Military Exchange Personnel in duty assignments in which direct hostilities with forces of a third country are likely. Should a unit in which Military Exchange Personnel are assigned become involved in hostilities unexpectedly, Military Exchange Personnel assigned to the unit shall not be involved in the hostilities.

7.13. Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs shall be extended to Military Exchange Personnel and their dependents on the same basis as equivalent personnel of the Host Party. This provision shall not, however, limit privileges set forth elsewhere in this Agreement or other privileges granted by the Host Party, at its discretion, with the consent of the Parent Party.

7.14. Military Exchange Personnel shall be granted leave and passes/liberty according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

7.15. Military Exchange Personnel shall be required to comply with the dress regulations of the Parent Organization. The order of dress for any occasion shall be that which most nearly conforms to the order for the particular unit of the Host Organization with which they are serving. Customs of the Host Organization shall be observed with respect to wearing of civilian clothes.

7.16. Consistent with the laws and regulations of the government of the Host Party, and upon conditions of reciprocity, the Host Organization shall provide, if available, housing and messing facilities for Military Exchange Personnel and their dependents on the same basis and priority as for its own personnel. Military Exchange Personnel shall pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization shall make suitable arrangements for Military Exchange Personnel.

7.17. The United States Army Attaché will serve as the U.S. Army Military Personnel Exchange Program Administrator. The U.S. Army Military Exchange Personnel on exchange with the Secretariat of the National Defense of the United States of Mexico units will be under the administrative control of the United States Army Attaché, Mexico City, Mexico.

7.18. Mexican Military Exchange Personnel on exchange with the U.S. Army will be under the administrative control of the Mexican Military Attaché in Washington, DC.

7.19. United States Military Exchange Personnel shall have the same status accorded members of the administrative and technical staff in the United States Embassy, Mexico City, Mexico. Mexican Military Exchange Personnel shall have status according to their visas.

ARTICLE VIII CLAIMS

8.1. Claims arising from the operation of this Agreement shall be governed by any bilateral agreement between the Parties pertaining to the status of their Forces in the country of the Host Party. Claims to which the provisions of any such bilateral agreements do not apply shall be dealt with as follows:

8.1.1. The Parties waive all their claims, other than contractual claims, against each other, and against the military members and civilian employees of each other's Department or Ministry of Defense, for damage, loss or destruction of property owned or used by its respective Department or Ministry of Defense, if damage, loss or destruction:

8.1.1.1. Was caused by a military member or a civilian employee in the performance of official duties, or

8.1.1.2. Arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its Department or Ministry of Defense, provided that the vehicle, vessel or aircraft causing the damage, loss or destruction was being used for official purposes, or that the damage, loss or destruction was caused to the property being so used.

8.2. The Parties shall waive all their claims against each other and against the military members and civilian employees of each other's Department or Ministry of Defense for injury or death suffered by any military member or civilian employee of their Department or Ministry of Defense while such member or employee was engaged in the performance of official duties.

8.3. Claims, other than contractual claims, for damage, loss, injury, or death, not covered by the waivers contained in paragraphs 8.1 and 8.2 of this Article, arising out of an act or omission by the military members or civilian employees of its Department or Ministry of Defense, or out of an act or omission for which the Parent Party is legally responsible, shall be presented to the Parent Party for consideration under its applicable laws and regulations.

8.4. Military Exchange Personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Party, or its political subdivision, where they

are located. In case of claims involving the use of private motor vehicles, the first recourse shall be against such insurance.

8.5. Nothing herein shall be construed as waiving the claims or suits of individual military members or civilian employees of the respective Department or Ministry of Defense, other civilian employees, or third parties that might exist under applicable law.

ARTICLE IX SETTLEMENT OF DISPUTES

Disputes arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, a national or international tribunal, or to any other forum for settlement.

ARTICLE X ENTRY INTO FORCE, AMENDMENT, DURATION AND TERMINATION

10.1. All activities of the Parties under this Agreement shall be carried out in accordance with the national laws and regulations of the Parties.

10.2. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

10.3. This Agreement may be amended by the mutual written consent of the Parties.

10.4. This Agreement may be terminated at any time upon the written agreement of the Parties. In the event both Parties agree to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

10.5. Either Party may terminate this Agreement upon 180 days written notification to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

10.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

10.5.2. Each Party shall pay the costs it incurs as a result of termination.

10.5.3. All information and rights therein received under the provisions of this Agreement prior to the termination shall be retained by the Parties, subject to the provisions of this Agreement.

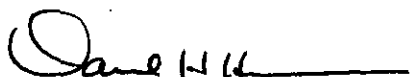
10.6. The respective rights and responsibilities of the Parties of this Agreement regarding Article VI (Security) and Article VIII (Claims) shall continue notwithstanding termination or expiration of this Agreement.

10.7. This Agreement, which consists of ten (10) Articles and two (2) or more Annexes, shall enter into force upon signature by both Parties and shall remain in force for ten (10) years. It may be extended by written agreement of the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

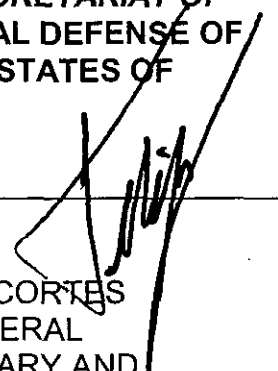
DONE at Washington, D.C., this 17th day of December 2002, in the English and Spanish languages, both texts being equally authentic.

**FOR THE DEPARTMENT OF
THE ARMY OF THE UNITED
STATES OF AMERICA**


(Signature)

DAVID H. HUNTOON
MAJOR GENERAL, U.S. ARMY
DIRECTOR, STRATEGY PLANS
AND POLICY

**FOR THE SECRETARIAT OF
THE NATIONAL DEFENSE OF
THE UNITED STATES OF
MEXICO**


(Signature)

FELIPE LARIOS CORTES
BRIGADIER GENERAL
DEFENSE, MILITARY AND
AIR ATTACHE
EMBASSY OF MEXICO IN THE
UNITED STATES OF AMERICA

ANNEX A
CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to (insert Name and location of organization to which assigned) pursuant to an agreement between the (insert applicable military organization) of the United States of America and the (insert applicable foreign military organization) of (Country Name). In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following conditions and responsibilities:

1. The purpose of the assignment is to gain knowledge of the organization and management of Host Party (cite applicable area for MPEP assignment) defense activities. There shall be no access to information except as required to perform the duties described in the position description of the position to which I am assigned, as determined by my designated Host Party supervisor.
2. I shall perform only functions which are properly assigned to me as described in the position description (PD) for my assignment and shall not act in any capacity on behalf of my government or my Parent Party or Parent Organization.
3. All information to which I may have access during this assignment shall be treated as information provided to my government in confidence and shall not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Party.
4. When dealing with individuals outside my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign exchange person.
5. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the Host Organization.
6. I will immediately report to my designated Host Party supervisor all attempts to obtain, without proper authorization, classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

(Signature)

(Typed Name)

(Rank/Title)

(Date)

ANNEX B
U.S. ARMY EXCHANGE POSITIONS
WITH THE MINISTRY OF DEFENSE OF MEXICO

No.	Position	Date Est.	Tour Length	Grade	Mexican Location	U.S. Location
1.	Language Instructor	1947	2 yrs	MAJ	Heroico Military Academy, Mexico	USMA, West Point, NY
2.	Language Instructor	1993	2 yrs	LTC	Escuela Superior Mexico City Mexico	WHINSEC Ft. Benning, GA